

REMARKS/ARGUMENTS

The Office Action dated May 7, 2003 has been received and carefully studied.

The Examiner rejects claims 1-3, 7-9 and 11-20 under 35 U.S.C. §103(a) as being unpatentable over prior U.S. Patent No. 5,558,006 (Kuboyama) in combination with U.S. Patent No. 4,045,586 (Howland et al.). The '586 patent recites a method of mixing the condensate solution with an aqueous solution of a fixative and drying (Column 3, lines 5-7). The patent further recites the properties of the fixative. Among other listed characteristics, the fixative must be water soluble and "necessarily be edible, compatible with coffee formulations, and should not impact any undesirable off-tastes" (Col 3, lines 50-61). The patent lists several suitable fixatives meeting the above-mentioned characteristics. These are described as being bland water soluble carbohydrates, such as dextrins, corn syrup, dextrose, lactose and the like (Col 3, lines 62-65).

Independent claim 1 has been modified to limit the absorbent to be either polyvinylidene fluoride filters, absorbents comprising glass fibers or absorbents comprising cellulose. As noted by the examiner, these three categories of absorbent are not suggested by the '586 patent. By listing the physical and chemical properties of suitable fixatives, the '586 patent teaches away from using these three types of material as the fixative.

The Examiner also rejected claims 14-20 based on this combination of references. However, claim 14 as originally presented limits the fixative to an animal or plant food material. These materials do not meet the requirements of the fixative disclosed in the '586 patent. Again, the patent teaches away from using materials such as meat, vegetable or grain, as these materials do not meet the requirements described in the '586 disclosure in that they are not water soluble and would certainly impart off-tastes affecting the desired flavor of the coffee.

The Examiner rejects claims 4 and 5 as being unpatentable in view of the '006 patent in combination with the '586 patent in further combination with U.S. Patent 5,114,722 (Zoubek). The '722 patent teaches that the "substance is pre-filtered through a membrane filter made from glass fiber material and subjected to sterile filtration with a polyvinylidene fluoride membrane filter" (Col 2, line 68 - Col 3, line 3). It further teaches that the "water is removed from the sterile-filtered organ extract by lyophilisation" (Col 3, lines 3-4). The use of polyvinylidene fluoride and glass fibers in the production of filters is disclosed. However, the '722 patent does not teach or suggest that the organ extract be dried onto these filters, as recited in the last three steps of newly amended Claim 1. Claim 1 requires that the absorbent material be contacted with the extract and that the absorbent material be dried to produce the solid form of

the extract, which is in contact with the absorbent material. The '722 patent uses these materials only in their traditional function as filters. In addition, as stated at page 2 of the instant specification, by solidifying the extract in accordance with the present invention, analysis of the effective ingredients in the extract is greatly facilitated, even though the amount of solidified extracted material is minute and often not visible to the naked eye. Reconsideration of these claims is respectfully requested.

The Examiner rejects claim 6 as being unpatentable in view of the '006 patent in combination with the '586 patent in further combination with U.S. Patent 5,231,193 (Mizusawa et al.). The '193 patent teaches a process of producing ellagic acid. The powdered form of the acid is created when "hydrochloric acid is added to the resulting solution and the precipitate fraction of ellagic acid formed by the acid is collected by filtration, washed sufficiently with water or 20% alcohol, dried and then ground to obtain purified powder of ellagic acid" (Col 4, lines 9-14). The patent also teaches five examples of the production, the fourth of which teaches, "the insoluble materials were removed therefrom by filtration through a filter paper to obtain 960 ml of a filtrate" (Col 5, lines 54-57). The '193 patent does not teach or suggest that the paper filter was dried in order to collect the powder form of the extract. As previously stated, the drying of the absorbent material to

collect the solid form of the extract is a key and innovative step in the present invention.

Reconsideration and allowance are respectfully requested in view of the foregoing amendment and remarks.

Respectfully submitted,



Kevin S. Lemack
Reg. No. 32,579
175 E. Main Street - Suite 8
Westboro, Massachusetts 01581
TEL: (508) 898-1818